

APPEAL NO. 021218  
FILED JULY 8, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing scheduled for February 27, 2002, March 26, 2002, and April 23, 2002, and held on April 30, 2002, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, and did not have disability. The claimant has filed an appeal of these determinations on evidentiary sufficiency grounds. The respondent (self-insured employer) urges in response that the evidence is sufficient to support the challenged determinations.

DECISION

Affirmed.

The claimant testified that while working as a building custodian on \_\_\_\_\_, she felt pain in her right wrist when she grabbed onto a shampoo machine to keep it from falling off a couch and that she later had pain in her right shoulder. She said she continued to work until August 12, 2001, when she commenced chiropractic treatment from her treating doctor who took her off work until December 22, 2001.

The claimant had the burden to prove that she sustained the claimed injury and that she had disability as that term is defined in Section 401.011(16). Texas Workers' Compensation Commission Appeal No. 94248, decided April 12, 1994. The Appeals Panel has stated that in workers' compensation cases, the disputed issues of injury and disability can, generally, be established by the lay testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 91124, decided February 12, 1992. However, the testimony of a claimant, as an interested party, only raises issues of fact for the hearing officer to resolve and is not binding on the hearing officer. Texas Employers Insurance Association v. Burrell, 564 S.W.2d 133 (Tex. Civ. App.-Beaumont 1978, writ ref'd n.r.e.).

The hearing officer's discussion of the evidence makes clear that she did not find the claimant's evidence on the disputed issues persuasive. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)), resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). As an appellate reviewing tribunal, the Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709

S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

**COUNTY JUDGE  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Robert E. Lang  
Appeals Panel  
Manager/Judge

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Michael B. McShane  
Appeals Judge